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DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-204839

DATE: October 26, 1981

MATTER OF: Zinger Construction Co., Inc.

DIGEST:

1. GAO does not consider protests against affirmative determinations of responsibility except in exceptional circumstances which are not alleged.
2. Protester's belief that apparent awardee will seek post-award contract modification substituting cast iron for specified aluminum parts, is a matter of contract administration which will not be considered by GAO.

Zinger Construction Co., Inc. protests an anticipated award under invitation for bids (IFB) DACA51-81-B-0105 issued by the Corps of Engineers. The protester complains that the apparent awardee does not plan to furnish aluminum anodes as specified in installing a cathodic protection system called for by the IFB. Instead, the protester believes the low bidder will substitute less expensive cast iron anodes if awarded the contract.

The protest is not based on any defect in the apparent awardee's bid. The protester bases its concern on its analysis of the low offeror's bid, prior experience the protester has had in competing against that firm for Government contracts, and information the protester has obtained from that firm's suppliers, whom the protester says were not asked for pricing based on use of aluminum.

According to the protester, the low bidder made a calculated decision to base its bid on cast iron, knowing that aluminum is required, because it believes that after

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securing award it will be able to convince the Corps to modify the contract in order to permit cast iron to be used. The protester states that the apparent awardee has done just this in past procurements, that as a result bids are not submitted on a common basis, and that therefore, the integrity of the competitive system is undermined.

Insofar as Zinger's protest is based on its belief that the Corps will improperly find the apparent awardee to be a responsible bidder and make award to it, we point out that our Office does not review affirmative determinations of responsibility unless the solicitation contains a definitive responsibility criterion which was not applied or that fraud or bad faith by procurement officials is alleged. Bob McDorman Chevrolet, Inc. and Jack Roach Cadillac, B-200846, B-200847, B-200847.2, B-200848, March 13, 1981, 81-1 CPD 194, aff'd., B-200847.3, August 28, 1981, 81-2 CPD 183. The protester does not allege that either of these exceptions applies.

In this respect, we note that a responsive bid binds an offeror to perform in accord with the solicitation as written and the bid may be accepted if the offeror is found to be capable of performing it. Zinger's speculation that the awardee may request a change in the specifications after award does not alter the propriety of the award or indicate bad faith on the part of Government officials.

Zinger's concern that the integrity of the competitive procurement system would be undermined were the Corps to later acquiesce in an awardee's request that the contract be modified, is a matter of contract administration which will not be considered by GAO. In this respect, we assume that the Corps specified its minimum needs by requiring the use of aluminum anodes.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel